



July 10, 2020

By Electronic Mail

Ms. Mary McDaniel, P.E.
Director, Southwest Region
Pipeline and Hazardous Materials Safety Administration
US Department of Transportation
8701 South Gessner, Suite 630
Houston, Texas 77074

**Re: CPF-4-2020-5010
Notice of Probable Violation, Proposed Civil Penalty and Proposed Compliance Order**

Dear Ms. McDaniel:

Pursuant to 49 C.F.R. Part 190.208, Rose Rock Midstream Operating LLC (RRMS or Company) submits this written response to a Notice of Probable Violation (NOPV), Proposed Civil Penalty (PCP) and Proposed Compliance Order (PCO) issued on May 26, 2020 by the Pipeline and Hazardous Materials Safety Administration (PHMSA). PHMSA's NOPV alleges five (5) violations and includes a total PCP of \$84,200 and a PCO proposing remedial requirements to address one (1) of the alleged violations.

The NOPV, received by RRMS on May 26, 2020, provided for 30 days following receipt to submit written comments. On May 26, 2020, RRMS requested PHMSA to provide the Case File and Civil Penalty Worksheet as allowed by 49 C.F.R. Parts 190.208(c) and 190.209(b)(2) and Docket No. PHMSA 2016-0101. PHMSA provided these items on June 2, 2020 via electronic mail. On June 23, 2020, RRMS requested additional time to respond until July 10, 2020. This request was approved via written correspondence from PHMSA on June 25, 2020, thus this response is timely. While RRMS neither admits to nor denies the allegations, the Company is not contesting the NOPV or PCO, however is requesting PHMSA to reconsider certain factors in the calculation of the PCP specific to Item 4 and reduce the PCP accordingly. Additionally, RRMS provides this written response to explain the Company's efforts to resolve the underlying issues identified in the NOPV.

PHMSA NOPV

By way of background, this enforcement action was issued following an inspection of the RRMS pipeline system in the Oklahoma and Kansas operating areas. This inspection occurred between July 23, 2018 and July 19, 2019. At the time of the inspection these assets were operated by Rose Rock Midstream L.P. (Operator ID 31476), a subsidiary of SemGroup Corporation. Energy Transfer acquired SemGroup Corporation in December 2019, after the time of inspection, and thus RRMS is now a wholly owned subsidiary of Energy Transfer but continues to be the operator.

The five (5) allegations of non-compliance in the NOPV concern the following; (1) Establishment of MOP as set forth in Part 195.406 by failing to maintain records of pressure tests or operational pressures for two (2) pipeline segments; (2) Valve maintenance as set forth in Part 195.420 by failing to inspect six (6) mainline valves in the second half of 2018; (3) Inspection of in-service breakout tanks as set forth in Part 195.432 by failing to complete external inspections within 5 years on fifteen (15) in-service breakout tanks; (4) Failing to perform initial internal inspections within 10 years on three (3) in-service breakout tanks; and (5) Integrity Management as set forth in Part 195.452 by failing to review certain information related to integrity management by a person qualified to do so in accordance with 195.452(f)(8).

With respect to the NOPV allegations in Items 2 and 5, relating to Parts 195.420 and 195.452, and as set forth in the NOPV, PHMSA has reviewed the circumstances and supporting documents and decided not to pursue additional enforcement or penalty assessment proceedings and issued these as Warning Items. For those two (2) NOPV items, RRMS has taken efforts to resolve the issues and perform the required inspections and reviews as detailed in the NOPV items going forward.

Item 1 – Maximum Operating Pressure (Part 195.406)

With respect to the alleged violation of Part 195.406, PHMSA proposes to issue RRMS a PCP of \$40,400. Additionally, a PCO is included that requires the Company to maintain a 20% pressure reduction for the Riverside to Hanston and the Hanston to Hudson segments until such time the segments have been pressure tested in accordance with Subpart E of 49 C.F.R 195 and records that conform to the requirements of Part 195.310 are provided to PHMSA for review. These records are to be provide to PHMSA not later than 180 days following issuance of the Final Order.

Although, the documentation required to substantiate Maximum Operating Pressure (MOP) per Part 195.406 was not available for review by PHMSA during the inspection, the Company has reasonable belief that MOP for the subject pipeline segments was established at the time these lines became subject to 49 C.F.R. 195. Despite subsequent research efforts, the Company has not been able to locate such documentation and will schedule pressure testing to be completed in accordance with the PCO. Additionally, the Company has reduced operating pressure in accordance with the PCO on both the Riverside to Hanston and Hanston to Hudson segments and will maintain this reduced pressure until such time that the MOP has been established in accordance with Part 195.406 and the documentation of pressure testing in accordance with Part 195.310 has been submitted to, reviewed and determined acceptable by PHMSA.

The pressure reduction requirements identified in the PCO were clarified for RRMS via telephonic conversation on June 12, 2020 with PHMSA. RRMS has subsequently reduced operating pressure to 80% of the lowest actual pressure experienced during the highest four (4) consecutive hours of operating pressure in the sixty (60) days prior to June 26, 2020. Resultant pressures are below:

Segment	Reduced Operating Pressure
Riverside to Hanston	192 psig
Hanston to Hudson	231 psig

Items 3 & 4 – Inspection of In-Service Breakout Tanks (Part 195.432)

With respect to the alleged violations of Part 195.432, PHMSA proposes to issue RRMS a PCP of \$43,800 collectively¹.

Item 3 of the NOPV alleges that RRMS failed to complete timely external in-service breakout tank (BOT) inspections of two (2) tanks in the Kansas area and thirteen (13) tanks in Oklahoma in accordance with API 653 Section 6.3, which requires external in-service BOT inspections every 5 years. El Dorado Tank 0301 and Cunningham Tank 1008 exceeded the 5-year interval by 49 days and 24 days respectively, and 13 tanks at the Cushing Tank Farm exceed the 5-year requirement by 17 days to 172 days.

Item 4 of the NOPV alleges that RRMS failed to complete timely internal out-of-service BOT inspections of four (4) tanks at Cushing Tank Farm: Tanks 2542 (start-up date 3/1/2009), 2525 (start-up date 1/31/2009), 3504 (start-up date 2/24/2009), and 3505 (start-up date 6/24/2009) were still in service at the time of the PHMSA inspection, and had not been taken out of service to perform the initial internal out-of-service inspections within the first 10 years of operation as required.

Since the time of the PHMSA inspection, RRMS has inspected each of the tanks identified above. RRMS will ensure that all required API 653 breakout tank inspections are scheduled and performed in a manner that is compliant with the requirements of 49 CFR 195.432.

Item 4 - Request for Reconsideration, Recalculation and Reduction of PCP (Part 195.432)

While RRMS neither admits nor denies the allegations described in Item 4 of the NOPV related to out-of-service BOT inspections, the Company is respectfully requesting PHMSA to reconsider the “Good Faith” efforts of RRMS to comply with the requirements of Part 195.432 and recalculate the PCP for this Item accordingly for the reasons set forth below.

PHMSA did not provide any allowable credit to RRMS with respect to the “Good Faith” section of the Pipeline Safety Violation Report (report) and the corresponding section of the Civil Penalty Worksheet (worksheet) for Item 4. Part E8 of the worksheet allows PHMSA to provide an operator with credit (-10 points) for a “reasonable justification for its non-compliance”. With respect to Item 4, the Company believed that the 10-year initial out-of-service BOT internal inspections required by Part 195.432 were to be performed within the calendar year of the 10th year of service and not on or prior to the calendar date 10 years after placing the BOT in-service. To further this position, RRMS points PHMSA to the “Interview Summary” section of the report for both Items 3 and 4. In each instance, PHMSA noted that the comment from the District Manager at the time of the inspection identically stated, “His understanding was that the inspection(s) just had to be performed during each tank’s [5th and 10th2] year of operation”. Each of the four (4) BOT were scheduled to be removed from service within the 2019 calendar year for internal inspection purposes.

¹ Item 3 - \$15,200
Item 4 - \$28,600

² 5 years for “in-service” and 10 years for “out-of-service” BOT inspections

The Company's reason for non-compliance with respect to Item 4 is identical to the reason for non-compliance with Item 3 of the NOPV yet PHMSA has only provided a "Good Faith" credit of -10 to the Company in the calculation of the PCP for Item 3.

RRMS notes that the "details supporting the selection" under Part E8 "Good Faith" of the report do not share the same similarity of the comments found in the "Interview Summary" sections for Items 3 and 4 and this circumstance may have influenced PHMSA's respective point selections for each item. However, given the identical nature of the Company's "reasonable justification for non-compliance" that exists between Items 3 and 4 specifically related to BOT inspection timing, RRMS is requesting PHMSA apply the "Good Faith" credit (-10) to the calculation for Item 4 and reduce the PCP amount from \$28,600 to \$11,405.

RRMS shares PHMSA's commitment to pipeline safety, public safety, and pipeline integrity and appreciates PHMSA's attention to this response. Further, as set forth above, and without admitting to the alleged violations, RRMS intends to perform the items requested by PHMSA in the PCO but respectfully requests that PHMSA consider the discussion regarding the PCP calculation for Item 4 and reduce the corresponding PCP accordingly.

Sincerely,



Greg McIlwain
Senior VP of Operations
Energy Transfer

Cc: Todd Stamm, VP Pipeline Operations
Carroll White, Director of Operations
Leif Jensen, Sr. Director Liquid Tech Operations
Mark Milliken, VP Technical Services
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Dawn McGuire, Esq., Assistant General Counsel